

**Remarks/Arguments:**

According to the Office Action, mailed June 5, 2006 (hereinafter, "Office Action"), the Examiner made the following new arguments, objections and rejections:

- The instant application fails to comply with the requirements for patent applications containing nucleotide and/or amino acid sequences.

1. **Remarks:**

a. **Response is timely.**

A response to the Office Action was due on July 5, 2006. The applicants attach hereto a Petition For Extension Of Time Under 37 CFR 1.136(a) along with payment of the associated fee. With the 5-month extension of time to respond to the Office Action, a response becomes due on December 5, 2006. This response was filed before this date and is therefore timely.

b. **Fees.**

The Applicants have authorized the Commissioner to charge Deposit Account No. 50-0244 in the amount of \$ 2,160.00 fee for filing of a Petition For Extension Of Time Under 37 CFR 1.136(a) for five (5) additional months to respond to the Office Action.

The applicants do not believe that any additional fees are due. However, please charge any additional fees required or credit any fees overpaid to Deposit Account No. 50-0244.

c. **Amendments to the Specification.**

Without prejudice or disclaimer, the specification was amended by replacing the the text at page 10, line 10 through line 12, of the instant application with the following rewritten text:

Figure 17 is a partial nucleotide and derived amino acid sequence for the 200 kDa protein of *M. catarrhalis* strain 4223 **(SEQ ID Nos: 49 and 50, respectively)**, indicating by arrows the locations of the initial amino acid of the respective three truncations ALA<sup>12</sup>, VAL<sup>19</sup> and GLY<sup>39</sup>;

The added text is bolded and underlined.

Without prejudice or disclaimer, the specification was amended by replacing the text at page 40, line 1 through line 4, of the instant application with the following rewritten text:

Plasmid pQWF was digested with *Dra* III and *Pst* I to remove 1.1 kb of the extreme 3-end of the 200 kDa gene (Figure 23). A 260 bp PCR fragment was amplified, containing tandem stop codons after the VVAGK **(SEQ ID No: 51)**. The PCR primers were designed to contain flanking *Dra* III and *Pst* I sites:

The added text is bolded and underlined.

Without prejudice or disclaimer, the specification was amended by replacing the sequence listing of the instant application with the substitute sequence listing attached hereto in ATTACHMENT A. The substitute sequence listing was requested to be entered into the specification between page 59 and Figure 1.

No new matter was added by the above amendments.

2. Arguments.

The Examiner alleges that the instant application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2), but fails to comply with the requirements of 37 CFR 1.821 through 1.825 because the nucleotide sequence and the amino acid sequence depicted in Figures 17A-17D, and the amino acid sequence recited in line 3 of page 40 of the specification are not identified by specific sequence identifiers, are listed not in the paper copy of the sequence listing, and not listed in the computer readable form of this sequence listing.

The applicants amended the specification so that the requirements of 37 CFR 1.821 through 1.825 are complied with. The description of Figures 17A through 17D at page 10, line 10 through line 12 has been amended to add sequence identifiers. Likewise, the text beginning at page 40, line 1 through line 4, has been amended to add a sequence identifier.

In view of the above amendments, the applicants attach hereto in ATTACHMENT A, a paper copy of a substitute sequence listing which amends the present sequence listing by adding

the sequences identified by SEQ ID Nos: 49, 50 and 51. In addition, a computer readable form of the substitute sequence listing is attached hereto on ATTACHMENT B. The content of the paper and computer readable copies of the substitute sequence listing are the same, and includes no new matter.

3. Conclusions.

The amendments, remarks and arguments submitted herein are intended to be fully responsive to the outstanding Office Action, to advance the prosecution of the present invention, and to place the application in condition for allowance.

The applicants respectfully request consideration and entry of this paper and its attachments. The applicants also respectfully request reconsideration of this application, as amended, and issuance of a timely Notice of Allowance in this case. Should the Examiner have any questions concerning this application, he/she is invited to contact the undersigned at (570) 839-5537.

Date: November 29, 2006

Respectfully submitted,

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## **ATTACHMENT A**